

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.: 2006-1518-PST-E TCEQ ID: RN101776557 CASE NO.: 31012**  
**RESPONDENT NAME: MOHAMMAD K ALI DBA SUNNYS FOOD STORE**

Page 1 of 2

<b>ORDER TYPE:</b>		
<input type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input checked="" type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input checked="" type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATIONS OCCURRED:</b> 11050 South Post Oak Road, Houston, Harris County</p> <p><b>TYPE OF OPERATION:</b> Convenience store with retail sales of gasoline.</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on December 28, 2008. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b></p> <p style="padding-left: 20px;"><b>TCEQ Attorney:</b> Ms. Laurencia Fasoyiro, Litigation Division, MC R-12, (713) 422-8914  Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019</p> <p style="padding-left: 20px;"><b>TCEQ Enforcement Coordinator:</b> Mr. Rajesh Acharya, Enforcement Section, MC-128, (512) 239-0577</p> <p style="padding-left: 20px;"><b>TCEQ Regional Contact:</b> Ms. Nicole Bealle, Houston Regional Office, MC R-12, (713) 767-3623</p> <p style="padding-left: 20px;"><b>Respondent:</b> Mr. Mohammad K. Ali, Owner, Sunnys Food Store, 11050 South Post Oak Road, Houston, TX 77035-4813</p> <p style="padding-left: 20px;"><b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter.</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date of Complaint Relating to this Case:</b>  None</p> <p><b>Date of Investigation Relating to this Case:</b>  August 14, 2006</p> <p><b>Date of NOE Relating to this Case:</b>  October 13, 2006</p> <p><b>Background Facts:</b>  The EDPRP was filed on October 10, 2007, and mailed to the Respondent via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," the Respondent received notice of the EDPRP on October 12, 2007, as evidenced by the signature on the card. The EDFARP was filed on September 23, 2008 and mailed to the Respondent via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," the Respondent received notice of the EDFARP on September 25, 2008, as evidenced by the signature on the card. The Respondent has failed to answer the EDPRP or the EDFARP, failed to request a hearing, and failed to schedule a settlement conference.</p> <p><b>Current Compliance Status:</b>  The Respondent has not completed any of the Ordering Provisions.</p> <p><b>PST:</b></p> <ol style="list-style-type: none"> <li>Failed to maintain Stage II records and make them immediately available for inspection upon request by agency personnel [30 TEX. ADMIN. CODE § 115.246(4) and (5) and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)]</li> <li>Failed to ensure that at least one Station representative received training in the operation and maintenance of the Stage II Vapor Recovery System [30 TEX. ADMIN. CODE § 115.248(1) and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</li> <li>Failed to maintain Stage II vapor recovery system in proper operating condition, as specified by the manufacturer and/or any applicable California Air Resources Board Executive Order(s), and free of defects that would impair the effectiveness of the system [30 TEX. ADMIN. CODE § 115.242(3) and TEX. HEALTH &amp; SAFETY CODE § 382.085(b)].</li> </ol>	<p><b>Total Assessed:</b> \$8,250</p> <p><b>Total Deferred:</b> \$0  <input type="checkbox"/> Expedited Order  <input type="checkbox"/> Financial Inability to Pay  <input type="checkbox"/> SEP Conditional Offset</p> <p><b>Total Due to General Revenue:</b> \$8,250</p> <p>This is a Default Order. The Respondent has not actually paid any of the assessed penalty but will be required to do so under the terms of this proposed Order.</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Ordering Provisions:</b></p> <ol style="list-style-type: none"> <li>Respondent's UST delivery certificate is revoked immediately. Respondent may submit an application for a new delivery certificate only after complying with the requirements of this Order.</li> <li>Within 10 days, Respondent shall send his UST delivery certificate to the address listed in the Order.</li> </ol> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> <li>Immediately, begin maintaining all Stage II vapor recovery records on-site.</li> <li>Within 30 days: <ol style="list-style-type: none"> <li>Ensure that at least one Station representative receives training in the operation and maintenance of the Stage II Vapor Recovery System, and each current employee receives in-house Stage II vapor recovery training regarding the purpose and operation of the Vapor Recovery System; and</li> <li>Begin maintaining the Stage II Vapor Recovery System in proper operating condition, including, but not limited to, installation of the swivel adapters.</li> </ol> </li> <li>Within 45 days, submit written certification to demonstrate compliance with these Ordering Provisions.</li> </ol>



Policy Revision 2 (September 2002)

# PCW.qvw Penalty Calculation Worksheet (PCW)

PCW Revision May 19, 2005

DATES	Assigned	21-Aug-2006	Screening	28-Aug-2006	EPA Due	
	PCW	28-Dec-2006				

<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent	Mohammad K. Ali dba Sunnys Food Store
Reg. Ent. Ref. No.	RN101776557
Facility/Site Region	12-Houston
Major/Minor Source	Major Source

<b>CASE INFORMATION</b>			
Enf./Case ID No.	31012	No. of Violations	3
Docket No.	2006-1518-PST-E	Order Type	1660
Media Program(s)	Petroleum Storage Tank	Enf. Coordinator	Rajesh Achaya
Multi-Media		EC's Team	Enforcement Team 7
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	<b>\$7,500</b>
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

<b>Compliance History</b>	<b>10% Enhancement</b>	<b>Subtotals 2, 3, &amp; 7</b>	<b>\$750</b>
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Notes: Enhancement due to two NOV's that are similar to the current enforcement action.

<b>Culpability</b>	<b>No</b>	<b>0% Enhancement</b>	<b>Subtotal 4</b>	<b>\$0</b>
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Notes: The respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply</b>	<b>0% Reduction</b>	<b>Subtotal 5</b>	<b>\$0</b>
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	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with a small x)

Notes: The respondent does not meet the good faith criteria.

<b>Economic Benefit</b>	<b>0% Enhancement*</b>	<b>Subtotal 6</b>	<b>\$0</b>
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Total EB Amounts	\$60
Approx. Cost of Compliance	\$1,100

\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$8,250</b>
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	<b>Adjustment</b>	<b>\$0</b>
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Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes:

<b>Final Penalty Amount</b>	<b>\$8,250</b>
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$8,250</b>
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<b>DEFERRAL</b>	<b>Reduction</b>	<b>Adjustment</b>	<b>\$0</b>
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

This is not an expedited case.

<b>PAYABLE PENALTY</b>	<b>\$8,250</b>
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Screening Date 28-Aug-2006

PCW: gpw  
Docket No. 2006-1518-PST-E

PCW

Respondent Mohammad K. Ali dba Sunnys Food Store

Policy Revision 2 (September 2002)

Case ID No. 31012

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN101776557

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Rajesh Achaya

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	2	10%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	0	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	0	0%
	Participation in a voluntary pollution reduction program	0	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	0	0%

Adjustment Percentage (Subtotal 2) 10%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Average

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance  
History Notes

Enhancement due to two NOVs that are similar to the current enforcement action.

Total Adjustment Percentage (Subtotals 2, 3, &amp; 7) 10%

Screening Date 28-Aug-2006

PCW.gpw

Docket No. 2006-1518-PST-E

PCW

Respondent Mohammad K. Ali dba Sunnys Food Store

Policy Revision 2 (September 2002)

Case ID No. 31012

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN101776557

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Rajesh Achaya

Violation Number 1

Primary Rule Cite(s) 30 Tex. Admin. Code § 115.246(4) and (5)

Secondary Rule Cite(s) Tex. Health &amp; Safety Code § 382.085(b)

Violation Description Failed to maintain Stage II records and make immediately available for inspection upon request by agency personnel. Specifically, employee training records and Stage II testing results were not available for review.

Base Penalty \$10,000

## &gt;&gt; Environmental, Property and Human Health Matrix

		Harm			Percent
OR	Release	Major	Moderate	Minor	
	Actual				
	Potential				

## &gt;&gt; Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
		x			

Matrix Notes 100% of the rule requirement was not met.

Adjustment -\$7,500

Base Penalty Subtotal \$2,500

## Violation Events

Number of Violation Events 1

mark only one use a small x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$2,500

One single event is recommended based on the investigation date of August 14, 2006.

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$4

Violation Final Penalty Total \$2,750

This violation Final Assessed Penalty (adjusted for limits) \$2,750

# Economic Benefit Worksheet

Respondent Mohammad K. Ali dba Sunnys Food Store

Case ID No. 31012

Reg. Ent. Reference No. RN101776557

Media [Statute] Petroleum Storage Tank

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

## Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling	\$100	14-Aug-2006	14-May-2007	0.7	\$4	n/a	\$4
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs Estimated cost to maintain Stage II records. Date Required is the date of investigation. Final Date is the estimated date of compliance.

## Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$100

TOTAL \$4

Screening Date 28-Aug-2006

PCW.gpw

Docket No. 2006-1518-PST-E

PCW

Respondent Mohammad K. Ali dba Sunnys Food Store

Policy Revision 2 (September 2002)

Case ID No. 31012

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN101776557

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Rajesh Achaya

Violation Number 2

Primary Rule Cite(s) 30 Tex. Admin. Code § 115.248(1)

Secondary Rule Cite(s) Tex. Health &amp; Safety Code § 382.085(b)

Violation Description

Failed to ensure that at least one Station representative received training in the operation and maintenance of the Stage II vapor recovery system. Specifically, Stage II training for the Station representative and the employees had not been completed.

Base Penalty \$10,000

## &gt;&gt; Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				25%
Potential		X		

## &gt;&gt; Programmatic Matrix

Falsification				Percent
	Major	Moderate	Minor	

Matrix Notes Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment -\$7,500

Base Penalty Subtotal \$2,500

## Violation Events

Number of Violation Events 1

mark only one use a small x	daily	
	monthly	
	quarterly	X
	semiannual	
	annual	
	single event	

Violation Base Penalty \$2,500

One quarterly event is recommended from the investigation date of August 14, 2006 to the August 28, 2006 screening date.

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$19

Violation Final Penalty Total \$2,750

This violation Final Assessed Penalty (adjusted for limits) \$2,750

# Economic Benefit Worksheet

Respondent Mohammad K. Ali dba Sunnys Food Store

Case ID No. 31012

Reg. Ent. Reference No. RN101776557

Media [Statute] Petroleum Storage Tank

Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

## Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling	\$500	14-Aug-2006	14-May-2007	0.7	\$19	n/a	\$19
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost for training. Date Required is the date of investigation. Final Date is the estimated date of compliance.

## Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$500

TOTAL \$19

<b>Screening Date</b> 28-Aug-2006	<b>Docket No.</b> 2006-1518-PST-E	<b>PCW</b>
<b>Respondent</b> Mohammad K. Ali dba Sunnys Food Store	<i>Policy Revision 2 (September 2002)</i>	
<b>Case ID No.</b> 31012	<i>PCW Revision May 19, 2005</i>	
<b>Reg. Ent. Reference No.</b> RN101776557		
<b>Media [Statute]</b> Petroleum Storage Tank		
<b>Enf. Coordinator</b> Rajesh Achaya		
<b>Violation Number</b> 3		
<b>Primary Rule Cite(s)</b>	30 Tex. Admin. Code § 115.242(3)	
<b>Secondary Rule Cite(s)</b>	Tex. Health & Safety Code § 382.085(b)	
<b>Violation Description</b>	Failed to maintain the Stage II vapor recovery system in proper operating condition, as specified by the manufacturer and/or any applicable California Air Resources Board Executive Order(s), and free of defects that would impair the effectiveness of the system. Specifically, the swivel adapters were not installed.	
<b>Base Penalty</b>		\$10,000

<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>				
OR	<b>Harm</b>			
	<b>Release</b>	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>
	Actual			
	Potential		X	
				<b>Percent</b> 25%
<b>&gt;&gt; Programmatic Matrix</b>				
	<b>Falsification</b>	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>
				<b>Percent</b>
<b>Matrix Notes</b>	Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.			
<b>Adjustment</b>				-\$7,500
<b>Base Penalty Subtotal</b>				\$2,500

<b>Violation Events</b>		
<b>Number of Violation Events</b> 1		
mark only one use a small x	daily	
	monthly	
	quarterly	X
	semiannual	
	annual	
	single event	
<b>Violation Base Penalty</b>		\$2,500
One quarterly event is recommended from the investigation date of August 14, 2006 to the August 28, 2006 screening date.		

<b>Economic Benefit (EB) for this violation</b>	<b>Statutory Limit Test</b>
<b>Estimated EB Amount</b> \$38	<b>Violation Final Penalty Total</b> \$2,750
<b>This violation Final Assessed Penalty (adjusted for limits)</b> \$2,750	

# Economic Benefit Worksheet

Respondent Mohammad K. Ali dba Sunnys Food Store

Case ID No. 31012

Reg. Ent. Reference No. RN101776557

Media [Statute] Petroleum Storage Tank

Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Description	No commas or \$						

## Delayed Costs

Equipment	\$500	17-Aug-2006	17-Sep-2007	1.1	\$2	\$36	\$38
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to maintain the Stage II vapor recovery system in proper operating condition.  
Date Required is the date of investigation. Final Date is the estimated date of compliance.

## Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$500

TOTAL \$38

# Compliance History

Customer/Respondent/Owner-Operator:	CN603107053	Mohammad K. Ali	Classification: AVERAGE	Rating: 2.80
Regulated Entity:	RN101776557	SUNNYS FOOD STORE	Classification: AVERAGE	Site Rating: 2.80
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION		REGISTRATION	35390
Location:	11050 S POST OAK RD, HOUSTON, TX, 77035		Rating Date: September 01 06 Repeat Violator: NO	
TCEQ Region:	REGION 12 - HOUSTON			
Date Compliance History Prepared:	October 12, 2006			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	October 12, 2001 to October 12, 2006			

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Rajesh Acharya Phone: (512) 239-0577

## Site Compliance History Components

- Has the site been in existence and/or operation for the full five year compliance period? Yes
- Has there been a (known) change in ownership of the site during the compliance period? No
- If Yes, who is the current owner? N/A
- If Yes, who was/were the prior owner(s)? N/A
- When did the change(s) in ownership occur? N/A

## Components (Multimedia) for the Site :

- Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.  
N/A
- Any criminal convictions of the state of Texas and the federal government.  
N/A
- Chronic excessive emissions events.  
N/A
- The approval dates of investigations. (CCEDS Inv. Track. No.)
  - 08/17/2006 (508850)
  - 06/16/2003 (60664)
  - 10/30/2003 (250554)
  - 04/27/2006 (460475)
- Written notices of violations (NOV). (CCEDS Inv. Track. No.)
 

Date:	06/16/2003	(60664)	
Self Report?	NO		Classification: Minor
Citation:	30 TAC Chapter 115, SubChapter C 115.246(7)(A)		
Description:	Failure to maintain records on-site at facilities ordinarily manned during business hours, and made immediately available for review upon request by authorized representatives.		
Self Report?	NO		Classification: Minor
Citation:	30 TAC Chapter 115, SubChapter C 115.246(6)		
Description:	Failure to maintain a record of daily inspections.		
Self Report?	NO		Classification: Minor
Citation:	30 TAC Chapter 115, SubChapter C 115.246(4)		
Description:	Failure to maintain documentation of all Stage II training for each employee.		
Self Report?	NO		Classification: Minor
Citation:	30 TAC Chapter 115, SubChapter C 115.246(3)		
Description:	Failure to maintain a maintenance log for all repair/replacements conducted anywhere on the stage II system.		

Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 115, SubChapter C 115.246(5)		
Description:	Failure to maintain a record of the results of testing conducted at the facility.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 115, SubChapter C 115.246(1)		
Description:	Failure to maintain a copy of the California Air Resources Board (CARB) Executive Order for the Stage II vapor recovery system and any related components installed at the facility (installed G-70-150-AD).		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 115, SubChapter C 115.242(3)[G]		
Description:	Failure to maintain regular UST cap and super vapor recovery cap all components of the stage II vapor recovery system in proper operating condition, as specified by the manufacturer and/or any applicable CARB Executive Order, and free of defects that would impair the effectiveness of the system.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 115, SubChapter C 115.244(3)		
Description:	Failure to conduct a monthly inspection of the components listed in 115.242(3)(J) (pressure/vacuum relief valves, vapor check valves, or Stage I dry breaks that are inoperative or defective).		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 115, SubChapter C 115.248(1)[G]		
Description:	Failure to ensure at least one facility representative receive training and instruction in the operation and maintenance of the Stage II vapor recovery system by successfully completing a training course approved by the Texas Commission on Environmental Quality (TCEQ).		
Date:	04/27/2006	(460475)	
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 115, SubChapter C 115.246(4)		
Description:	30 Tex. Admin. Code Section 115.246 (4) - Failure to maintain proof of attendance and completion of the training specified in §115.248 of this title (relating to Training Requirements), with the documentation of all Stage II training for each employee to be maintained as long as that employee continues to work at the f		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 115, SubChapter C 115.246(5)		
Description:	30 Tex. Admin. Code Section 115.246(5)- Failure to maintain a record of the results of testing conducted at the motor vehicle fuel dispensing facility in accordance with the provisions specified in § 115.245 of this title (relating to Testing Requirements).		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 115, SubChapter C 115.242(3)[G]		
Description:	30 Tex. Admin. Code Section 115.242 (3)(G) - Failure to maintain the Stage II vapor recovery system in proper operating condition, as specified by the manufacturer and/or any applicable CARB Executive Order(s), and free of defects that would impair the effectiveness of the system, including vapor return lines, includin		

- F. Environmental audits.  
N/A
- G. Type of environmental management systems (EMSs).  
N/A
- H. Voluntary on-site compliance assessment dates.  
N/A
- I. Participation in a voluntary pollution reduction program.  
N/A
- J. Early compliance.  
N/A
- Sites Outside of Texas  
N/A

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
MOHAMMAD K. ALI DBA  
SUNNYS FOOD STORE  
RN101776557**

§  
§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **DEFAULT ORDER DOCKET NO. 2006-1518-PST-E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality, ("Commission" or "TCEQ") considered the Executive Director's First Amended Report and Petition filed pursuant to TEX. WATER CODE chs. 7 and 26, TEX. HEALTH & SAFETY CODE ch. 382, and the rules of the TCEQ, which requests appropriate relief, including the revocation of the respondent's underground storage tank ("UST") delivery certificate, the imposition of an administrative penalty, and corrective action of the respondent. The respondent made the subject of this Order is Mohammad K. Ali dba Sunnys Food Store ("Mr. Ali").

The Commission makes the following Findings of Fact and Conclusions of Law:

### **FINDINGS OF FACT**

1. Mr. Ali owns and operates a convenience store with retail sales of gasoline located at 11050 South Post Oak Road, Houston, Harris County, Texas (the "Station").
2. Mr. Ali's USTs are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. Mr. Ali's USTs contain a regulated substance as defined in the rules of the Commission. The Station consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. During a record review on August 14, 2006, a University of Texas at Arlington TCEQ contract investigator documented that Mr. Ali failed to:
  - a. Maintain Stage II records and make them immediately available for inspection upon request by agency personnel. Specifically, employee training records and Stage II testing results were not available for review.

- b. Ensure that at least one Station representative received training in the operation and maintenance of the Stage II vapor recovery system. Specifically, Stage II training for the Station representative and the employees had not been completed.
  - c. Maintain Stage II vapor recovery system in proper operating condition, as specified by the manufacturer and/or any applicable California Air Resources Board Executive Order(s), and free of defects that would impair the effectiveness of the system. Specifically, the swivel adapters were not installed.
4. Mr. Ali received notice of the violations on or about October 18, 2006.
5. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Mohammad K. Ali dba Sunnys Food Store" (the "EDPRP") in the TCEQ Chief Clerk's office on October 10, 2007.
6. By letter dated October 10, 2007, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Ali with notice of the EDFARP. According to the return receipt "green card," Mr. Ali received notice of the EDFARP on October 12, 2007, as evidenced by the signature on the card.
7. The Executive Director filed the "Executive Director's First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Mohammad K. Ali dba Sunnys Food Store" (the "EDFARP") in the TCEQ Chief Clerk's office on September 23, 2008.
8. By letter dated September 23, 2008, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Mr. Ali with notice of the EDFARP. According to the return receipt "green card," Mr. Ali received notice of the EDFARP on September 25, 2008, as evidenced by the signature on the card.
9. More than 20 days have elapsed since Mr. Ali received notice of the EDPRP and the EDFARP, provided by the Executive Director. Mr. Ali failed to file an answer to either the EDPRP or the EDFARP, failed to request a hearing, and failed to schedule a settlement conference.

### CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, Mr. Ali is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26, TEX. HEALTH & SAFETY CODE ch. 382, and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3.a., Mr. Ali failed to maintain Stage II records and make them immediately available for inspection upon request by agency personnel, in violation of 30 TEX. ADMIN. CODE § 115.246(4) and (5) and TEX. HEALTH & SAFETY CODE § 382.085(b).
3. As evidenced by Finding of Fact No. 3.b., Mr. Ali failed to ensure that at least one Station representative received training in the operation and maintenance of the Stage II vapor recovery system, in violation of 30 TEX. ADMIN. CODE § 115.248(1) and TEX. HEALTH & SAFETY CODE § 382.085(b).
4. As evidenced by Finding of Fact No. 3.c., Mr. Ali failed to maintain Stage II vapor recovery system in proper operating condition, as specified by the manufacturer and/or any applicable California Air Resources Board Executive Order(s), and free of defects that would impair the effectiveness of the system, in violation of 30 TEX. ADMIN. CODE § 115.242(3) and TEX. HEALTH & SAFETY CODE § 382.085(b).
5. As evidenced by Finding of Fact Nos. 5 and 6, the Executive Director has timely served Mr. Ali with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
6. As evidenced by Finding of Fact Nos. 7 and 8, the Executive Director has timely served Mr. Ali with proper notice of the EDFARP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
7. As evidenced by Finding of Fact No. 9, Mr. Ali has failed to file a timely answer to either the EDPRP or the EDFARP, as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Mr. Ali and assess the penalty recommended by the Executive Director.
8. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Mr. Ali for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.

9. An administrative penalty in the amount of eight thousand two hundred fifty dollars (\$8,250.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
10. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.
11. Pursuant to 30 TEX. ADMIN. CODE § 334.8(c)(6), the Commission has authority to revoke Mr. Ali's UST delivery certificate if the Commission finds that good cause exists.
12. Good cause for revocation of Mr. Ali's UST delivery certificate exists as justified by Findings of Fact Nos. 3, 5, 6, 7, 8, 9 and Conclusions of Law Nos. 2 through 7.

#### ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY  
ORDERS that:

1. Mr. Ali is assessed an administrative penalty in the amount of eight thousand two hundred fifty dollars (\$8,250.00) for violations of TEX. WATER CODE chs. 7 and 26, TEX. HEALTH & SAFETY CODE ch. 382, and rules of the TCEQ. The payment of this administrative penalty and Mr. Ali's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here. All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality". The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order and shall be sent with the notation "Re: Mohammad K. Ali dba Sunnys Food Mart; Docket No. 2006-1518-PST-E" to:

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. Mr. Ali's UST delivery certificate is revoked immediately upon the effective date of this Order. Mr. Ali may submit an application for a new delivery certificate only after Mr. Ali has complied with all of the requirements of this Order.
3. Within 10 days after the effective date of this Order, Mr. Ali shall send his UST delivery certificate to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

4. Mr. Ali shall undertake the following technical requirements:
  - a. Immediately upon the effective date of this Order, Mr. Ali shall begin maintaining all Stage II vapor recovery records on-site, in accordance with 30 TEX. ADMIN. CODE § 115.246.
  - b. Within 30 days after the effective date of this Order, Mr. Ali shall:
    - i. Ensure that at least one Station representative receives training in the operation and maintenance of the Stage II vapor recovery system, and each current employee receives in-house Stage II vapor recovery training regarding the purpose and operation of the vapor recovery system, in accordance with 30 TEX. ADMIN. CODE § 115.248(1); and
    - ii. Begin maintaining the Stage II vapor recovery system in proper operating condition, including but not limited to, installation of the swivel adapters, in accordance with 30 TEX. ADMIN. CODE § 115.242(3).
  - c. Within 45 days after the effective date of this Order, Mr. Ali shall submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 4.a., 4.b.i., and 4.b.ii.

The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry

of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Mr. Ali shall submit all correspondence, reports, and documentation required by these Ordering Provisions to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

and

Nicole Bealle, Waste Section Manager  
Texas Commission on Environmental Quality  
Houston Regional Office  
5425 Polk Street, Suite H  
Houston, Texas 77023-1452

5. All relief not expressly granted in this Order is denied.
6. The provisions of this Order shall apply to and be binding upon Mr. Ali. Mr. Ali is ordered to give notice of this Order to personnel who maintain day-to-day control over the Station operations referenced in this Order.
7. If Mr. Ali fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Mr. Ali's failure to comply is not a violation of this Order. Mr. Ali shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. Ali shall notify the Executive Director within seven days after Mr. Ali becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
8. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Mr. Ali shall be made in writing to the Executive Director. Extensions are not effective until Mr. Ali receives written approval from

the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

9. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Mr. Ali if the Executive Director determines that Mr. Ali has not complied with one or more of the terms or conditions in this Order.
10. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
11. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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For the Commission

AFFIDAVIT OF LAURENCIA N. FASOYIRO

STATE OF TEXAS           §  
                                  §  
COUNTY OF HARRIS       §

"My name is Laurencia N. Fasoyiro. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.


On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Mohammad K. Ali dba Sunnys Food Store" (the "EDPRP") was filed with the Office of the Chief Clerk on October 10, 2007.

The EDPRP was sent to Mr. Ali at his last known address on October 10, 2007 via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green card," Mr. Ali received notice of the EDFARP on October 12, 2007, as evidenced by the signature on the card.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, I filed the "Executive Director's First Amended Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Mohammad K. Ali dba Sunnys Food Store" (the "EDFARP") was filed with the Office of the Chief Clerk on September 23, 2008.

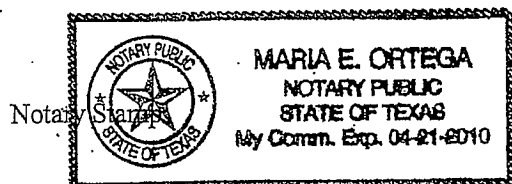
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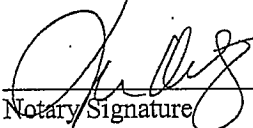
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\_\_\_\_\_  
Laurencia N. Fasoyiro  
Attorney  
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Laurencia N. Fasoyiro, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 10 day of Oct, A.D., 2008.



  
\_\_\_\_\_  
Notary Signature